

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|------------------------------|---|------------|
| ARTHUR JAMES GRIFFIN JR., |) | 8:18CV316 |
| |) | |
| Plaintiff, |) | |
| |) | MEMORANDUM |
| v. |) | AND ORDER |
| |) | |
| STATE OF NEBRASKA, JAMES A. |) | |
| HERRICK, and ROBERT C. KEEN, |) | |
| |) | |
| Defendants. |) | |
| |) | |

On August 2, 2018, the court ordered Plaintiff to file an amended complaint within 30 days or face dismissal of this action (Filing No. 15). To date, Plaintiff has not filed an amended complaint or taken any other action in this matter.

On August 23, 2018, the clerk of the court received correspondence from the Lancaster County Department of Corrections indicating that Plaintiff was released from its custody on August 8, 2018 (Filing No. 16). However, the court's previous order, which was mailed to Plaintiff six days prior to his release, was not returned as undeliverable. It therefore must be presumed that Plaintiff received the order and was placed on notice that this action would be dismissed if he did not take appropriate action. *See Davis v. U.S. Bancorp*, 383 F.3d 761, 766 (8th Cir. 2004) ("We apply a presumption that a properly mailed document is received by the addressee.").

IT IS THEREFORE ORDERED:

This matter is dismissed without prejudice because Plaintiff failed to prosecute it diligently and failed to comply with this court's orders. The court will enter judgment by a separate document.

DATED this 24th day of October, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge